

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Lee Newton et al.**) Confirmation No. **6386**
Application No. **10/537,723**)
Filed: **June 7, 2005**) Group Art Unit: **1624**
For: **Process for the Preparation of Pyrimidine**) Examiner: **Erich A. Leeser**
Compounds)
) Date: July 3, 2008

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action dated June 6, 2008, the time for responding to which extends through July 6, 2008, Applicants elect with traverse the invention of Group III (drawn to the preparation of compounds of Formula (1)). Claims 1-9 encompass the elected group. The compound of Example 1 (*i.e.*, methyl 2-amino-4-(4-fluorophenyl)-6-isopropyl-pyrimidine-5-carboxylate) is elected with traverse as a single disclosed species for examination purposes. Claims 1-9 encompass the elected species.

Applicants traverse the restriction requirement because Applicants submit that Groups III, IV and V recite a single general inventive concept – *i.e.*, a process for preparing a compound of Formula (1). More specifically, claim 1 (of Group III) recites a process for forming a dihydropyrimidine, which is also the focus of the claims of Group IV (*i.e.*, claims 16-18). Claim 1 also recites a process for oxidizing the formed dihydropyrimidine, which is also the focus of the claims of Group V (*i.e.*, claims 19-21). Applicants therefore submit that there is a technical relationship among Groups III, IV and V that satisfies PCT Rule 13.2 and respectfully request withdrawal of the restriction requirement as it relates to Groups III, IV and V.

Regarding the requirement for election of a species, it is Applicants have elected with traverse because although it is Applicants' understanding that the Examiner intends to begin by searching the elected species and will continue to search until art is found or until the structural formula (1) is found allowable, Applicants reserve the right to petition in the event that this understanding is incorrect.

Except for issues payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **July 3, 2008**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202-739-3000
Fax: 202-739-3001

Respectfully submitted,
Morgan, Lewis & Bockius LLP



Gregory T. Lowen
Registration No. 46,882
Direct: 202-739-5915